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IN THE

Supreme Court of the United States

OCTOBER TERM, 1964

THE MOTORLEASE CORPORATION, *Petitioner*

v.

UNITED STATES OF AMERICA

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

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Petitioner, The Motorlease Corporation, prays that a writ of certiorari issue to review the decision of the United States Court of Appeals for the Second Circuit in this case.

OPINIONS BELOW

The opinion of the United States District Court for the District of Connecticut (R. 28a-53a) is reported at 215 F. Supp. 356.[1] The opinions of the court of

[1] "R. 1" to "R. 81" refers to pages of the original certified record in the United States District Court for the District of Connecticut which has been filed herein. "R. 1a" to "R. 85a" refers to pages of the certified reproduced portions of the transcript of the record and proceedings in the court below which has also been filed herein, including Appendix B to the brief of Appellant in the court below. In addition, for the convenience of the Court, we have filed nine additional copies of said Appendix B, which has the same pagination as in reproduced portions of the certified record of the court below, and will be referred to as "R. 1a" to "R. 55a".

appeals (Appendix A, *infra*, pp. 1a to 4a) are reported at 334 F. 2d 617.[2]

JURISDICTION

The judgment of the court of appeals (Appendix A, *infra*, p. 21a) was entered on July 15, 1964. A timely petition for rehearing (R. 64a-76a) was denied on August 20, 1964 (R. 79a). The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

QUESTION PRESENTED

Petitioner is in the business of leasing motor vehicles to the public on long term leases, selling them at wholesale when they are returned from lease. In deducting a "reasonable allowance" for depreciation on the vehicles while used in the business, in accordance with the regulations issued by the Commissioner of Internal Revenue under section 167 of the Internal Revenue Code of 1954, petitioner, after making an estimate of the period of useful life of the vehicles in the business and of the salvage value of the vehicles as of the end of the period of estimated useful life, established a depreciation rate based on those estimates, which would return, as a depreciation deduction, the cost less the estimated salvage value during the period of estimated useful life. The Commissioner has conceded that petitioner's estimates were reasonable and that the resulting depreciation rate was reasonable. The question presented is whether, notwithstanding the reasonable-

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[2] Since the court below decided this case on the authority of, and for the reasons given in, *Fribourg Navigation Co.* v. *Commissioner*, 335 F. 2d 15, decided on the same day by an entirely different panel of the court below, we have also reprinted the opinions in the *Fribourg Navigation Co.* case in Appendix A, *infra*, pp. 5a to 21a.

ness of petitioner's estimates and the depreciation deductions based thereon and petitioner's compliance with the pertinent regulations, the Commissioner may nonetheless disallow all or part of the depreciation deduction otherwise allowable for the year-of-sale, in any instances where a vehicle is sold at a gain, the amount of the disallowance depending on the adjusted basis (book value) of the vehicle at the beginning of the year of sale.

STATUTE AND REGULATIONS INVOLVED

Section 167 of the Internal Revenue Code of 1954, 26 U.S.C. 167, and the pertinent provisions of the depreciation regulations issued thereunder are set forth in Appendix B, *infra,* pp. 22a to 28a.

STATEMENT

Petitioner Motorlease Corporation instituted this action in the United States District Court for the District of Connecticut to recover taxes paid in response to deficiencies assessed against it for the fiscal years ending September 30, 1957, 1958, 1959 and 1960 by reason of the disallowance of certain deductions for depreciation claimed by petitioner in those years (R. 6a-7a, 10a, 28a). The facts which give rise to the legal issue in the case are undisputed and may be summarized as follows:

Petitioner is a Connecticut corporation (R. 14a) engaged in the business of long-term leasing of motor vehicles to the public (R. 10a, 15a, 28a). During the years in question, petitioner deducted from income, on a straight line basis, a "reasonable allowance" for depreciation on the motor vehicles used in its business (R. 10a, 15a-18a, 21a, 28a). Petitioner never claimed any accelerated depreciation (R. 16a). In computing the depreciation allowance, petitioner meticulously fol-